

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10607 OF 2004

Ms. Shobhana Ramkrishna Lonkar .. Petitioner.

vs.

Shri Chandrakant Ramkrishna

Lonkar & Ors. .. Respondents.

Mr. A.V. Anturkar with

Mrs. Vinita V. Bakre-Shastry for petitioner.

Mr. R. K. Sarogi for S.V.Pitre

for respondent no.1.

CORAM : S.U. KAMDAR, J.

DATE : 18th November, 2005.

P.C.: . The present writ petition is preferred against the order passed by the Divisional Joint Registrar in a appeal preferred against the order of the Deputy Registrar granting joint membership to the petitioner, the respondent no. 1 and one Sou. Sushma Sharadchandra Bhagwat. Originally, the father of all the three was the member who expired on 23.4.1984. On his death an application has been made by the respondent no. 1 for being joined as a member jointly along with other two legal heirs namely, the petitioner and

2

said Sushma S. Bhagwat. The society called upon the respondent no. 1 to produce the succession certificate before a membership could be granted. That order of the Society was challenged before the Deputy Registrar of Co-operative Societies. The Deputy Registrar by an order dated 23.11.2002 rejected the appeal. A revision was preferred under Section 154 before the Divisional Registrar and the Division Registrar has rejected the said revision.

2. The petitioner who is one of the legal heirs and who has also been granted joint membership has challenged the said orders essentially relying upon rule 20 of the Maharashtra Co-operative Societies Rules, 1961 and has contended that the declaration as contemplated under rule 20 having not been filed, both the authorities below were in error in granting the said membership jointly to the petitioner, respondent no. 1 and the said Sou. Sushma S. Bhagwat as the legal heirs and representatives. Secondly, it has been contended that there is no refusal of the membership. In view of the fact that only a letter was sent asking the respondent no. 1 to produce the succession certificate. The learned counsel for the petitioner has also contended that during the life time of the father the petitioner was an associate member and thus she has become the main member and the respondent no. 1 could only be admitted as an associate member. In my opinion,

none of the aforesaid contentions has any merit. Firstly, on the death of the father on 23.4.1984 the membership of the father ceased to exist and consequently membership of the petitioner as an associate member of the said father also obviously came to an end. The petitioner of course would be then entitled to be a member if there is a nomination in her favour and/or a joint member along with other legal heirs. If the other legal heirs consent then the petitioner also could be entitled to be a main member of the society. None of such thing has happened. In that view of the matter, the respondent no. 1 has filed an application for membership and consequently the said membership has been granted to the respondent no. 1 jointly with the petitioner and the other legal heirs, Mrs. Sushma Bhagwat. In view of the aforesaid orders passed by the Court on the application of membership by the respondent no. 1 obviously he will be the main member and the other two persons would be the joint and/or associate members as contemplated under the provisions of the Maharashtra Co-operative Societies Act and/or rules framed thereunder. In so far as the second contention is concerned that there is no refusal of membership. In my opinion, the said contention has also no merit because the fact that the society refused to admit the respondent no. 1 as a member in absence of succession certificate itself tantamounts to refusal and, therefore, both

the authorities have rightly exercised jurisdiction. In any event, I am also of the further opinion that in essence the dispute is inter se between the legal heirs of the deceased father Ramkrishna Lonkar and such inter se dispute amongst the members is required to be determined not through the method of membership dispute but requires to be determined by appropriate court of civil jurisdiction. I am also of the further opinion that a person who becomes a member of the society would obviously hold the said property for himself and also for and on behalf of the legal heirs and legal representatives who have interest in the said property. The membership dispute is only merely for the purpose of society rules and regulation and for exercising rights conferred on a member under the Act and the Rules framed thereunder. In that view of the matter, I do not find it proper to interfere with the concurrent findings given by both the Courts below. In that view of the matter, petition fails and is accordingly dismissed. No order as to costs.